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DEPARTMENT OF COMMERCE

International Trade Administration

(C-351-846, C-580-884)

Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing countervailing duty (CVD) orders on certain hot-rolled steel flat products (hot-rolled steel) from Brazil and the Republic of Korea (Korea). In addition, the Department is amending its final affirmative determination with respect to Korea to correct the rate assigned to POSCO.

DATES: EFFECTIVE [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin at (202) 482-6478 (Brazil); and Katie Marksberry at (202) 482-7906 (Korea); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on August 4, 2016, the Department made final determinations that countervailable subsidies are being provided to producers and exporters of hot-rolled steel from

Brazil and Korea.<sup>1</sup> Pursuant to section 705(d) of the Act, the Department published the affirmative final determinations on August 12, 2016.<sup>2</sup>

On August 12, 2016, Hyundai Steel and POSCO timely filed ministerial error comments, alleging that the Department made errors in the final determination of the CVD investigation of hot-rolled steel from Korea. On August 17, 2016, Nucor Corporation (Petitioner) filed rebuttal comments. We analyzed the allegations submitted by Hyundai Steel and POSCO, and determined that one ministerial error exists, as defined by section 705(e) of the Act and 19 CFR 351.224(f).<sup>3</sup> See “Amendment to the Korea Final Determination” section below for further discussion.

On September 26, 2016, the ITC notified the Department of its final determinations that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from Brazil and Korea, within the meaning of section 705(b)(1)(A)(i) of the Act and that critical circumstances do not exist with respect to imports of subject merchandise from Brazil.<sup>4</sup>

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<sup>1</sup> Pursuant to section 735(c)(2) of the Act, we have terminated the countervailing duty investigation of hot-rolled steel from Turkey because the ITC found imports subsidized by the government of Turkey to be negligible, *see* Letter to Christian Marsh, Deputy Assistant Secretary of Commerce for Enforcement and Compliance, from Irving Williamson, Chairman of the U.S. International Trade Commission, regarding antidumping and countervailing duty investigations concerning imports of certain hot-rolled steel flat products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom (Investigation Nos. 701-TA-545-547 and 731-TA-1291-1297 (September 26, 2016) (ITC Letter).

<sup>2</sup> See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Final Affirmative Determination, and Final Determination of Critical Circumstances, in Part*, 81 FR 53416 (August 12, 2016) (*Brazil CVD Final Determination*); *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016) (*Korea CVD Final Determination*); *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From the Republic of Turkey: Final Affirmative Determination*, 81 FR 53433 (August 12, 2016).

<sup>3</sup> See Department Memorandum regarding “Countervailing Duty Investigation: Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Response to Ministerial Error Comments filed by Hyundai Steel Co., Ltd. and POSCO,” dated August 23, 2016 (Korea Ministerial Error Decision Memorandum).

<sup>4</sup> See ITC Letter.

### Scope of the Orders

The products covered by these orders are certain hot-rolled steel flat products. For a complete description of the scope of the orders, *see* Appendix I.

### Amendment to the Korea CVD Final Determination

As discussed above, after analyzing the comments received from Hyundai Steel and POSCO, we determined, in accordance with section 705(e) of the Act and 19 CFR 351.224(f), that we made a ministerial error with regard to certain calculations in the *Korea CVD Final Determination* with respect to POSCO. This amended final CVD determination corrects these errors and revises the *ad valorem* subsidy rate for POSCO to 58.68 percent (from 57.04 percent).<sup>5</sup> There is no change to the “all others” rate because POSCO’s rate was determined entirely under section 776 of the Act, and therefore, excluded from the “all others” rate calculation.

### Countervailing Duty Orders

In accordance with sections 705(b)(1)(A)(i), and 705(d) of the Act, the ITC has notified the Department of its final determinations that the industry in the United States producing hot-rolled steel is materially injured by reason of subsidized imports of hot-rolled steel from Brazil and Korea, and that critical circumstances do not exist with respect to imports of subject merchandise from Brazil.<sup>6</sup> Therefore, in accordance with section 705(c)(2) of the Act, we are publishing these CVD orders.

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<sup>5</sup> See Korea Ministerial Error Decision Memorandum. *See also* Department Memorandum regarding “Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Amended Final Determination Calculation Memorandum for POSCO,” dated August 23, 2016.

<sup>6</sup> See ITC Letter.

## *Brazil*

As a result of the ITC's final determinations, in accordance with section 706(a) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, countervailing duties on unliquidated entries of hot-rolled steel from Brazil entered, or withdrawn from warehouse, for consumption on or after January 15, 2016, the date on which the Department published its preliminary affirmative countervailing duty determinations in the *Federal Register*,<sup>7</sup> and before May 14, 2016, the date on which the Department instructed CBP to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of hot-rolled steel from Brazil made on or after May 14, 2016, and prior to the date of publication of the ITC's final determination in the *Federal Register*, are not liable for assessment of countervailing duties due to the Department's discontinuation, effective May 14, 2016, of the suspension of liquidation.

## *Korea*

Because the Department's preliminary determination in the Korea CVD investigation was negative, we did not instruct CBP to suspend liquidation with regard to entries of hot-rolled steel from Korea.<sup>8</sup> The Department's final determination was affirmative, and therefore, we directed CBP to suspend liquidation.<sup>9</sup> Therefore, with regard to Korea, we will direct CBP to assess, upon further instruction by the Department, countervailing duties on unliquidated entries

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<sup>7</sup> See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 2168 (January 15, 2016) (*Brazil CVD Preliminary Determination*).

<sup>8</sup> See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 2172 (January 15, 2016) (*Korea CVD Preliminary Determination*).

<sup>9</sup> See *Korea CVD Final Determination*, 81 FR at 53440.

of hot-rolled steel entered, or withdrawn from warehouse, for consumption on or after August 12, 2016, the date on which the Department published the *Korea CVD Final Determination* in the *Federal Register*.

#### Suspension of Liquidation

In accordance with section 706 of the Act, we will direct CBP to reinstitute the suspension of liquidation of hot-rolled steel from Brazil effective on the date of publication of the ITC's notice of final determinations in the *Federal Register*, and to continue the suspension of liquidation of hot-rolled steel from Korea, effective on the date of publication of the Department's notice of final determination in the *Federal Register*. We will also direct CBP to assess, upon further instruction by the Department, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

#### Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of hot-rolled steel from Brazil, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse for consumption on or after October 17, 2015 (*i.e.*, 90 days prior to the date of the publication of the *CVD Preliminary Determination*), but before January 15, 2016 (*i.e.*, the date of publication of the *CVD Preliminary Determination*).

On or after the date of publication of the ITC's final injury determinations in the *Federal Register*, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below:

<b>Exporter/Proucer from Brazil</b>	<b>Subsidy Rate (Percent)</b>
Companhia Siderurgica Nacional (CSN)	11.30
Usinas Siderurgicas de Minas Gerais S.A. (Usiminas)	11.09
All Others	11.20

<b>Exporter/Proucer from Korea</b>	<b>Subsidy Rate (Percent)</b>
POSCO	58.68
Hyundai Steel Co., Ltd.	3.89
All Others	3.89

#### Notifications to Interested Parties

This notice constitutes the CVD orders with respect to hot-rolled steel from Brazil and Korea, pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

These orders are issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: September 27, 2016.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## Appendix I

The products covered by this order are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping<sup>10</sup> or countervailing duty<sup>11</sup> orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or

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<sup>10</sup> See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea, 65 FR 6585 (February 10, 2000).

<sup>11</sup> See Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea, 65 FR 6587 (February 10, 2000).

- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these orders unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this order:

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;<sup>12</sup>
- Ball bearing steels;<sup>13</sup>
- Tool steels;<sup>14</sup> and

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<sup>12</sup> For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

<sup>13</sup> Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.



- Silico-manganese steels;<sup>15</sup>

The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the order may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the order is dispositive.

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<sup>14</sup> Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

<sup>15</sup> Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

